

REMARKS

Claims 1, 9, 14, 18, 23, 26, 29, 34, 42, 43, and 52 are pending in the application for the Examiner's review and consideration. Claims 2-8, 10-13, 15-17, 19-22, 24, 25, 27, 28, 30-33, 35-41, 44-51, and 53-59 remain withdrawn and are held in abeyance. Applicants wish to thank the Examiner for indicating allowable subject matter.

THE DOUBLE PATENTING REJECTION

Claims 1, 9, 14, 18, 42, and 43 were rejected under the judicially-created doctrine of obviousness-type double patenting as being unpatentable over claims 1-17 of U.S. Patent No. 6,436,442 to Woo *et al.* ("Woo"). In an effort to expedite prosecution, Applicants submit a terminal disclaimer, attached hereto. Applicants respectfully submit that the double patenting rejection has been overcome.

CLAIM REJECTIONS UNDER 35 U.S.C. §112

Claims 14, 23, 26, and 29 were rejected under 35 U.S.C. §112, first paragraph, as allegedly failing to comply with the enablement requirement. Applicants respectfully traverse the rejection.

On page 2 of the Office Action, it alleges that by only providing a complexation constant or a CMC value, Applicants impose a burden of undue experimentation on the public. Applicants respectfully submit that the specification enables one skilled in the art to make and/or use the invention.

MPEP 8th edition §2106 B. 2. (page 2100-20) states that "the fact that experimentation is complex, however will not make it undue if a person of skill in the art typically engages in such complex experimentation." Complexation constants and CMC values are well known by those skilled in the art of providing compounds containing cyclodextrin. While tests for determining the values of complexation constants and CMC values can be complex, these types of tests are readily known by those skilled of ordinary skill in the art. Further, the specification further instructs one of ordinary skill in the determination of values for these parameters. Applicants respectfully submit that the complexation constants and CMC values are not "clues" as suggested by the Office Action. Rather, they are enabled parameters for forming compositions of this invention. Thus,

Applicants submit that the specification enables one skilled in the art to make an/or use the invention.

CLAIM REJECTIONS UNDER 35 U.S.C. §102

Claims 1, 9, 14, 18, 26, 29, 34, 42, 43, and 52 were rejected under 35 U.S.C. §102(b) as being allegedly anticipated by U.S. Patent No. 4,678,598 to Ogino *et al.* ("Ogino"). Applicants respectfully traverse the rejection.

Ogino allegedly discloses shampoo compositions whereby when menthol is treated by a modified cyclodextrin and incorporated into a shampoo composition, the specific odor of menthol is mitigated. *See, e.g.,* Ogino, col. 3, lines 19-25. "Hitherto, cyclodextrin is known to form an inclusion compound with various substances. For instance, it forms an inclusion compound with menthol at a molar ration of about 1:1" *See, Ogino, col. 2, lines 47-50.*

On page 3 of the Office Action, it is alleged that when the shampoo of Ogino is applied, the menthol odorant is released at which point uncomplexed cyclodextrin will be present. Applicants respectfully submit that Ogino does not teach each and every limitation of the present invention in a single prior art reference. Specifically, Ogino does not teach or even suggest that uncomplexed cyclodextrin will be present in the compositions of Ogino.

As disclosed by the present invention, functionally-available cyclodextrin is capable of complexing with unwanted molecules. *See, e.g.,* Specification, page 3, lines 25-30. Functionally-available cyclodextrin refers to cyclodextrin that is either not complexed with other materials (e.g., uncomplexed, free cyclodextrin) or is complexed with materials that only weakly complex with cyclodextrin. *See, e.g.,* Specification page 3, line 32 to page 4, line 1. The compositions of Ogino disclose compositions whereby cyclodextrin is used to mitigate the smell of these compositions. Any cyclodextrin present in Ogino is utilized by combining the aromatic chemicals of Ogino and cyclodextrin in advance to formulate a shampoo composition. As the cyclodextrin in Ogino is combined with aromatic chemicals, it is not functionally-available. Ogino allegedly discloses that cyclodextrin forms inclusion compounds with menthol at a molar ratio of about 1:1. It is well known in the art that the addition of water to a composition does not change the molar ratio of other components within the composition. Applicants respectfully submit that Ogino does not disclose or even

suggest the addition of water for creating functionally-available cyclodextrin as the addition of water in Ogino does not alter the molar ratio between cyclodextrin and menthol.

Thus, Ogino does not teach each and every limitation of the present invention in a single prior art reference. Applicants respectfully submit that the rejections under 35 U.S.C. §102(b) be reconsidered and withdrawn.

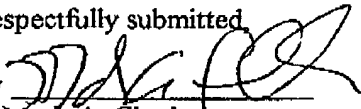
With regard to all claims not specifically mentioned, these are believed to be allowable not only in view of their dependency on their respective base claims and any intervening claims, but also for the totality of features recited therein.

All claims are believed to be in condition for allowance. Should the Examiner disagree, Applicants respectfully invite the Examiner to contact the undersigned attorney for Applicants to arrange for a telephonic interview in an effort to expedite the prosecution of this matter.

CONCLUSION

In view of the foregoing amendments and accompanying remarks, reconsideration of the application and allowance of all claims are respectfully requested. A fee for a two-month extension of time is believed to be due for the amendments herein. Should any fee be required, please charge such fee to Procter & Gamble Deposit Account No. 16-2480.

Respectfully submitted

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